BUSINESS, LABOR & ECONOMIC AFFAIRS
EXHIBIT No. 3
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BILL No. SB 254

Montana State Senate

Business & Labor Committee

Hearing on SB 254

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CARD CHECK / NEUTRALITY / RECOGNITION REQUIREMENT FOR PRIVATELY CONTRACTED CONTRACTS

BASIC INFORMATION - SB 254

FAQ's

WHAT IS "CARD CHECK"?

Card Check is when a majority of workers sign cards saying they want to be represented by a particular union, the employer can voluntarily choose to recognize the union and bypass formal NLRB (National Labor Relations Board) or BOPA (Board of Personnel Appeals) elections. Although this process is much more simple and democratic than NLRB / BOPA elections, US labor law does not make it mandatory for employers to recognize a union after a successful card check is conducted – this is where "card check neutrality" comes into play...

WHAT IS MEANT BY "CARD CHECK NEUTRALITY"?

Card Check Neutrality means an employer can agree ahead of time to voluntarily recognize any union as soon as a majority of employees sign cards saying they want to join that union. Employers are adopting this process more and more but some employers will obviously not do this unless they are pressured to do so (e.g. by law, community pressure, employee pressure), but it's clearly the most democratic way to run a union election, and it leaves much less space for intimidation and manipulation than the NLRB / BOPA process.

WHAT WILL SB 254 DO?

This bill requires that any future contracts the state has with private businesses include a requirement that the employer agree to neutrality during organizing efforts and a process to check authorization cards as union recognition.

Typically, when state employees organize a union they experience less hostility than in the private sector where often employers adopt a "no holds barred" position with regard to unions. This hostile position forces unions to file 'Unfair Labor Practices' (ULP's) and potentially even go on strike which increases costs related to the contract the burden of which will lie with the state and the states costumers – taxpayers. In addition is saves the state money by not having to move through a bureaucratic election process when a clear majority of employees have indicated a desire to be represented by a union.

This bill requires that in the future, included in any contract with private businesses will be labor recognition process that will not slow services or increases costs due to labor unrest. The employer would agree to abide by all aspects of the law and to recognize employee's right to belong to a union by a card check process.

BACKGROUND

Union membership in the United States has been declining for years. Fifty years ago, more than a third of America's workforce (about 35%) belonged to a union. Today, the number of union members is higher, but unions represent less than 8% of American workers in the private sector and just 12.5% of all workers. In an effort to reverse this trend, unions are using new, legal and creative tactics to organize workers. Many unions have recently advocated for card check procedures and neutrality agreements as a means to gain Board (NLRB and / or BOPA) certification. Why? Because, instead of working together to amicably bargain contracts and respect workers while they organize a union, the privately contracted employer can choose not to respect its employees' choice and can force workers to undergo a time-consuming and election process that enables management to intimidate workers and pressure them to abandon their support of the union through a coercive anti-worker campaign.

This is costly for the state and taxpayers, not to mention the private employer and the union. The duplication involves intensive government bureaucracy that is costly. When a strong majority of employees indicate, by signing a card that clearly states their desire for union representation, why does the state spend valuable tax dollars essentially jumping through same loop twice.

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MEMORANDUM OF AGREEMENT
REGARDING NEUTRALITY AND CARD CHECK RECOGNITION
-SAMPLE-

_____("the Company") and ("the Union"), enter into this Memorandum of Agreement Regarding Neutrality and Card Check Recognition as of the _____ day of _____, _____.

1. Duration: This Agreement is effective as of the date stated above, and shall remain in effect for as long as there is a contractual relationship with the State. Should the contractual relationship end and the Company continues to do business, the contract shall remain in effect for a period of 2 years, unless modified or terminated by mutual written agreement of the parties or their successors. The parties expressly understand, that in the event this Agreement is terminated, all of the terms hereof and the terms of any Collective Bargaining Agreement (CBA) nevertheless shall survive said termination and remain in effect with respect to any reorganization or restructuring of any bargaining unit as a result of which management creates any new subsidiary, division, or operating entity as to which no Union representation than exists and is doing contractual business with the State.

2. Applicability

(a) All card check procedures and any Union recognition provided for by this Agreement shall be applicable to all non-management employees of the Company effective with execution of this Agreement.

(b) As used herein, "the Company" means _____ and all other present and future companies, divisions, subsidiaries or operating units thereof engaged in a contractual relationship with the State.

(c) As used herein, "non-management" means employees who normally perform work in non-management job titles in accordance with the statutory requirements of the State Collective Bargaining Law, Title 39 Chapter 31 MCA. and applicable decisions of the Board of Personnel Appeals and reviewing courts. If the Union disagrees with any such determination, the parties agree to submit the issues of unit definition to arbitration as set forth in paragraph 3., below, using the afore said statutory requirements and decisions as the governing principles.

(d) In addition to the foregoing, the parties further agree that any proposed bargaining unit shall exclude applicable managerial, confidential employees, guards and supervisors as defined in the Title 39, Chapter 31 MCA.

3. Card Check Recognition Procedure

(a) When requested by the Union, the Company agrees to furnish the Union lists of employees in the bargaining unit in each applicable company entity. This list of employees will include the work location, job title, home address, email address, cell phone and phone number.

(b) If the Union desires access to the employer's work location, it will give five (5) days notice for access to Company locations. Access will be limited to one sixty (120)-day period in any twelve months for each unit agreed upon or determined as provided herein.

(c) (1) The Union and the Company shall meet within a reasonable period, but not to exceed ninety (90) days, after the effective date hereof for the purpose of defining appropriate bargaining units for all presently existing potential bargaining units. During this process, the Company will share job titles, job functions, work locations, and management structure with the Union representatives in order to facilitate agreements on the appropriate bargaining units. In the event that the parties are unable to agree, after negotiating in good faith for reasonable time, upon the description of an appropriate unit for bargaining, the issue of the description of such unit shall be submitted to arbitration administered by, and in accordance with, the rules of the American Arbitration Association (AAA). The Arbitrator shall be confined solely to the determination by the statutory requirements of the State Collective Bargaining Law. The parties agree that the decision of the Arbitrator shall be final and binding. The Company and the Union agree that the permanent Arbitrator to hear disputes with respect to this sub-paragraph shall be_____ _____. If these Arbitrators cannot serve, the parties shall select an Arbitrator from a list or lists of prospective Arbitrators provided by the AAA.

(2) If either the Company or the Union believes that the bargaining unit as agreed or determined in (c) (1) above, is no longer appropriate due to organizational changes, then the parties shall meet and confer in good faith for the purpose of redefining the appropriate unit. In the event that the parties are unable to agree, after negotiating in good faith for a period of no more than 30 working days, upon the re-definition of an appropriate unit, the issue of the description of such unit shall be submitted to arbitration as provided in (c) (1). The only determining factor that can be used for exclusion from an existing bargaining unit between the Union and the Company with regard to re-structuring or re-organization is management status. Community of interest need not be a consideration. All new job titles will be amended into the current contract and if need be the Union and the Company agree to bargaining an addendum to the CBA to cover relevant work related issues not currently covered in the existing CBA.

(d) The Company agrees that the Union shall be recognized as the exclusive bargaining agent for any agreed-upon or otherwise determined bargaining unit(s) not later than ten (10) days after receipt by the Company of written notice from the AAA that the Union has presented valid authorization cards signed by the majority of the employees in such unit(s).

(e) The cards presented must be dated within sixty (60) days of each other, but no earlier than the date of execution of this Agreement, and each card so presented must contain at least the language set forth in this Agreement, and each card so presented must contain at least the language set forth in Attachment 1 hereto. The Company shall provide the AAA all employees, job titles and other information required for the AAA to verify the existence of more than 50 percent of employee authorizations as provided for in this Agreement.

(e) In the event the AAA determines that the Union failed to deliver to the AAA valid authorization cards signed by a majority of employees in any aforesaid bargaining unit upon completion of its card signing effort, the Union agrees not to begin any further card signing effort in such unit for a period of one year from the date on which the first card was signed.

(f) As soon as practicable after the aforesaid recognition and upon written request by the Union, the Company, or the appropriate subsidiary, division or operating unit thereof shall commence bargaining in good faith with the Union with respect to wages, hours, and other terms and conditions of employment for the employees employed within the agreed upon or otherwise determined appropriate bargaining unit.

4. Neutrality

(a) The Company agrees, and shall so instruct all appropriate managers, that the Company will remain neutral and will neither assist nor hinder the Union on the issue Union representation.

(b) For purposes of this Agreement, "neutrality" means that management shall not, within the course and scope of their employment by the Company, express any opinion for or against Union representation of any existing or proposed new bargaining unit, or for or against the Union or any officer, member or representative thereof in their capacity as such. Furthermore, management shall not make any statements or representations as the potential effects or results of Union representation on the Company or any employee or group of employees. The Union also agrees that, in the course of any effort by the Union to obtain written authorization from employees as provided for in paragraph 3. (b) above, neither the Union nor any of its officers, representatives, agents or employees will express publicly any negative comments concerning the motives, integrity or character of the Company, _____, or any of their officers, agents, directors or employees.

(c) This agreement supersedes and terminates any and all other agreements, Memorandum of Understanding, commitments, or statements of any intent regarding neutrality or card-check procedures that may exist as of the date hereof between the Union and any Company entity.

5. Valid Authorization Cards For purposes of this Agreement, a valid written authorization card shall state specifically that by signing the card, the employee agrees to be represented by the Union, using the language set forth in Attachment 1.

6. Recognition For New Entities and New Work

(a) The Company agrees that it will give the Union reasonable advance notice, once a firm management decision has been made, of its intent to effect any reorganization or restructure, or to engage in any new line(s) of business, as a result of which management expects to create any new subsidiary, division, or operating entity as to which no Union representation then exists. After execution of this Agreement, should the Company acquire new companies or engage in a new line of business or enter a new market in which there is no active labor agreement or bargaining agreement in place, the parties agree that this Agreement shall apply to that acquired company or new line of business or enterprise in a new market after that company has signed a contract for business with the State. The Union shall have access to the operations of the Company within 48 hours of a signed contract for business with the State. The collective bargaining agreement (CBA) currently in place between the Union and the Company will be amended to add any new job titles to the Unit Definition section of the CBA.

(b) Except as specified in paragraph 9., below, the Union shall retain any legal rights it may have to challenge any management decision or determination described in this paragraph 6.

7. Regulatory and Legislative Support The Union hereby agrees to continue its support before the appropriate regulatory and legislative bodies for the company's efforts to remain competitive in markets in which the Company chooses to participate, unless the Union determines such support to be in conflict with its interests. If the Union determines such a conflict exists, the Union will promptly so notify the Company and, at the request of the Company, meet to discuss and confer on such conflict.

The Company hereby agrees to support Union efforts before regulatory and legislative bodies unless the Company determines such support to be in conflict with its interests. If the Company determines such a conflict exists, the Company will so notify the Union and will, if requested by the Union, meet to discuss and confer eon such conflict.

8. Job Offers To Employees In Existing Bargaining Units

In connection with any reorganization, restructuring or other event that gives rise to application of the terms of this Agreement, and which involves either:

9. Dispute Resolution All disputes concerning the meaning or application of the terms of this Agreement shall be handled and addressed by the meeting of designated representatives of the Company and the Union. Either party may request such a meeting and each party pledges its best efforts to address any and all concerns raised as to the meaning or application of this Agreement. The meaning or application of this Agreement shall be subject to arbitration.

10. Severability Should any portion of this Agreement be voided or held unlawful or unenforceable by the Board of Personnel Appeals or any court of competent jurisdiction, the remaining provisions shall remain in full force and effect for the duration of this Agreement.

THE UNION **THE COMPANY**

By_____ **By**_____

Date_____ **Date**_____

ATTACHMENT 1 TO MEMORANDUM OF AGREEMENT REGARDING CARD CHECK RECOGNITION

The Union _____

I hereby join with my fellow workers in organizing a Union to better our conditions of life and secure economic justice. I have voluntarily accepted membership in the (Union), AFL-CIO, and declare that this Union shall be my representative in collective bargaining over wages, hours, and all other conditions of employment.

I understand that if (Union) presents cards for recognition signed by more than 50 percent of the _____employees eligible to be in the bargaining unit. (Company name) will recognize (Union) as the bargaining representative of this unit without a representation election being conducted by the BOPA and (Company name) would bargain with (Union) concerning the terms of my employment and my working conditions.

Facts & Figures
Compensation

Third-Quarter Compensation Costs Averaged $25.52 Per Hour

Total compensation costs paid by private nonfarm employers averaged $25.52 per hour in the third quarter, as the share of compensation going to wages and salaries rose for the first time in recent years, according to figures released Dec. 13 by the Bureau of Labor Statistics.

The hourly cost of private industry wages and salaries rose to an average of $18.04 in September from $17.77 in the second quarter and from $17.23 a year earlier.

By comparison, the cost for all benefits increased to $7.48 per hour from $7.39 per hour in June and $7.11 per hour in September 2005.

The share of total compensation going to wages and salaries ticked upward to 70.7 percent in September from 70.6 percent three months earlier. It was the first time that the share of wages and salaries increased as a share of total compensation costs since BLS began compiling comparable industry data on employer costs for employee compensation in 2004.

Conversely, the cost of benefits accounted for 29.3 percent of compensation in the third quarter, down from 29.4 percent in September 2005.

The data from BLS's national compensation survey of more than 11,000 establishments show the proportion of compensation going to benefits in general has been increasing over the past several years, while the share going to wages and salaries has been shrinking.

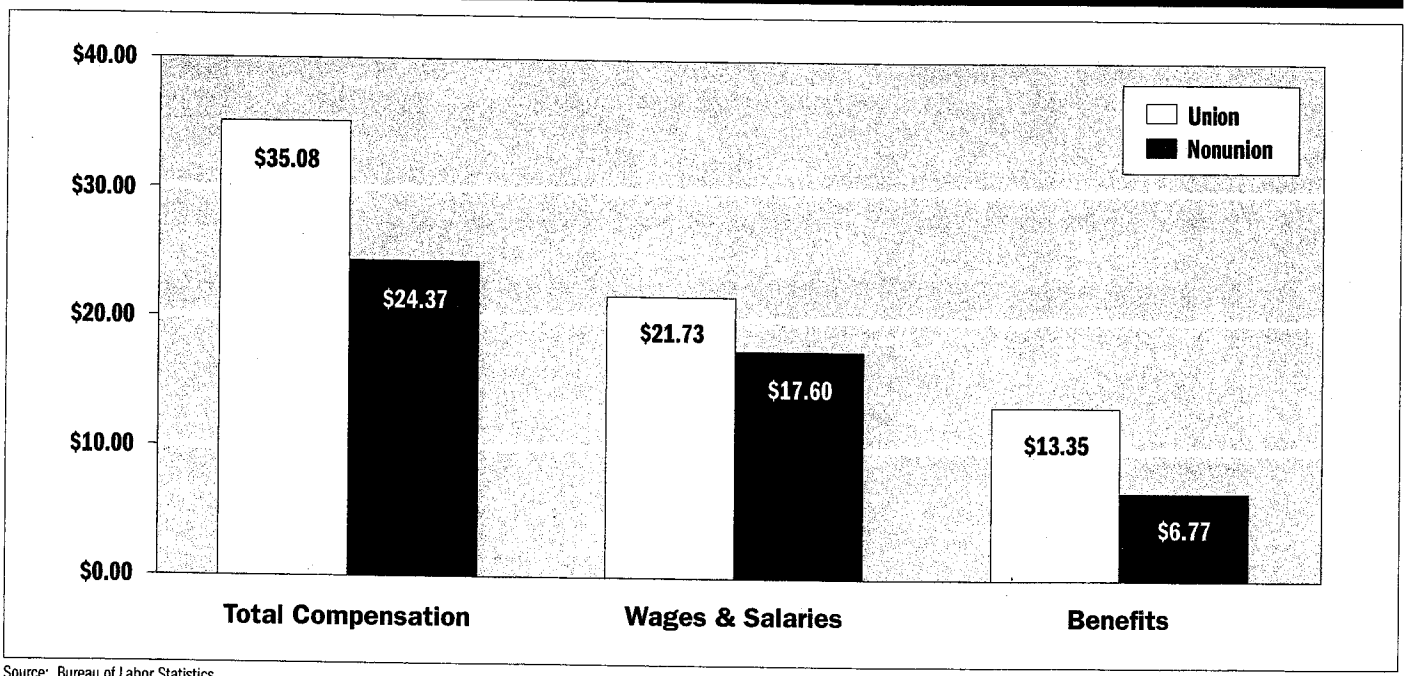
By specific benefit, private employers' costs for employee health care plans averaged $1.76 per hour in September, up from $1.74 per hour in June and from $1.66 per hour in September 2005. The share of total compensation going to health coverage was 6.9 percent in the third quarter, up from 6.8 percent a year earlier.

Costs for paid leave averaged $1.73 per hour in September, or 6.8 percent of total compensation; costs for employer-sponsored retirement and savings plans averaged 93 cents per hour, or 3.6 percent of compensation; and costs for legally required benefits, including contributions for Social Security, Medicare, and workers' compensation, averaged $2.18 per hour, or 8.6 percent of compensation.

Total compensation costs for union-represented employees averaged $35.08 per hour in September, higher than the $24.37 per hour average cost for nonunion workers. The share of compensation going to benefits also was higher for union workers (38 percent versus 27.8 percent).

The BLS report on compensation costs is available at www.bls.gov/news.release/pdf/ecec.pdf.

Employer Costs Per Hour Worked for Employee Compensation
Private Industry Workers by Bargaining Status, September 2006



Source: Bureau of Labor Statistics
NOTE: The sum of individual items may not equal totals due to rounding.

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Senate Business & Labor Committee
Legislation re: Card Check & Neutrality
Requirement for Contractual Services with the State of Montana

Information Sheet #2

The National Labor Relations Act

As observed by the United States Supreme Court in 1992, "the NLRA [or National Labor Relations Act] confers rights only on employees, not on unions." *Lechmere, Inc. v. NLRB*). In that regard, the plain language of the NLRA confirms that it was enacted and designed to protect *employees* as members of unions. In keeping with this core purpose, Section 7 of the NLRA provides that employees have the right to engage or refrain from union activity, and Section 9(c) provides for a secret ballot election that is conducted by the National Labor Relations Board to measure employee support of a union.

The History on Card Checks

Before 1947, the Wagner Act provided that the Board could certify unions by relying on a secret ballot election or "any other suitable method." One commonly used "other suitable method" was "card checks," a procedure in which union agents would obtain the signature of workers on cards authorizing the union to represent the employees. By the late 1930's, employers were well on their way to pressuring political leaders to remove this as a suitable method so they could more successfully hinder unionization.

In 1947, Taft-Hartley amendments were passed which changed Section 9(c) and made the secret ballot election the *exclusive* means by which a union may obtain Board certification to act as the collective bargaining agent for a group of employees. Since 1947, the Board has stated that "Board-conducted elections are the preferred way to resolve questions regarding employees' support for the unions." *Levitz Furniture Co. of the Pacific, Inc.* Obviously, this is because it's easier for employers to fight the union in a election process where there are virtually no penalties for breaking the law. This is also due to the overwhelming conservative and anti-union presence in Congress and on the NLRB. The Supreme Court also has held that "secret ballot elections are *generally* the most satisfactory method of determining employee free choice." *NLRB v. Gissel Packing Co.* However, there have been various legal decisions countering that assessment.

Certification by Secret Ballot Alone

It is still permissible for an employer to voluntarily recognize a union as the exclusive bargaining agent for a group of employees if the employer is presented with evidence that the union has the support of a majority of those employees. Further, to demonstrate majority support, unions continue to utilize the ancient "card check" procedure. However, an employer that is presented with the requisite number of signed cards can always insist that an election be held pursuant to Section 9(c) of the NLRA.

The NLRA does not expressly provide for card checks as a way to demonstrate majority support because Congress specifically removed the "other suitable methods" phrase from the statute in 1947. There is only one statutory basis for employees to show that they favor the union so that the union may be certified as their collective bargaining agent – that is, through a secret ballot election. The reason for this is simple; card checks are poor indicators of union support and are susceptible to intimidation, coercion, and outright trickery by the unions.

For nearly seventy years, the Board and the U.S. Supreme Court have refused to embrace the card check procedure and have consistently rejected its utility. The Supreme Court has described card checks as "inherently unreliable" because of the "natural inclination of most people to avoid stands which appear to be nonconformist and antagonistic to friends and fellow employees." *NLRB v. Gissel Packing*.

Workers presented with a union authorization card may sign it because they do not want to offend the person before them, or they may want the union agent to just leave them alone. The workers are sometimes led to believe that they are signing something else, such as a request for a secret ballot election or a non-binding statement of interest. At other times, the workers are simply threatened into signing the card. In one documented case, an employee was told to sign the authorization card or else "the union would come get her children and it would also slash her tires." *HCF, Inc. d/b/a ShawneeManor*. Secret ballot elections, on the other hand, allow for the comfort of secrecy in voting and provide employees with the opportunity to carefully consider their choice after being fully informed by both the union and the employer of the advantages and disadvantages of union representation.

Minnesota Governor Signs Executive Order Requiring Neutrality on State-Funded Construction Contracts

Minnesota Gov. Tim Pawlenty (R) Nov. 21, 2005 signed an executive order requiring that the state award all public construction contracts without regard to a contractor's union or non-union status. "Preserving Competition on State Construction Contracts," Executive Order 05-17, declares that the state of Minnesota and its agencies and representatives will neither require construction contractors to sign, nor prohibit construction contractors from signing a union agreement as a condition of working on state government construction projects. "Gov. Pawlenty's leadership on this issue will ensure that taxpayers receive the most value for their tax dollars," said Kent Durenberger of Mid-States Mechanical Services, Inc., Mankato, Minn., chairman of ABC's Minnesota chapter.

In July, Arkansas Gov. Mike Huckabee (R) signed a similar order requiring neutrality toward the union status of contractors thereby promoting and preserving fair competition and free enterprise for Arkansas' state contracts. Both the Arkansas and Minnesota executive orders prohibit the states from requiring contractors to sign a union-only project labor agreement (PLA) when bidding on state work.

"This issue is critical to taxpayers because union-only PLAs drive down competition for contracts, thereby increasing project costs," said Durenberger. "Union-only PLAs discourage qualified and experienced merit shop contractors from offering economical project bids."

"The overwhelming majority of the nation's construction workforce, approximately 85 percent, have chosen not to belong to a union," said ABC 2005 National Chairman Gary Roden. "Often, firms with these employees offer the most affordable and highest quality project bids, but have been discouraged from bidding because of discriminatory union agreements. When the project is publicly funded, accepting bids from all qualified contractors is in the taxpayers' best interest. Actions like these executive orders ensure that all bids will now be considered fairly and that these states will benefit from more competition.

"Hopefully, our nation's policy-makers will continue recognizing the importance of delivering the most economical construction projects to their constituents, who deserve value for their tax dollar," added Roden.

July 08, 2005

Union Card Check/Neutrality Agreements OK'd

NLRB Administrative Law Judge Raymond P. Green ruled that employers can agree to accept a union based on a card check procedure, and agree to remain neutral in union elections. See Heartland Industrial Partners and United Steelworkers of America, et al. NLRB Division of Judges, New York Branch Office, 34-CE-9, June 16, 2005. Union Wins Right to Use New Tool to Organize by Alison Grant, *The Plain Dealer*, July 6, 2005.

New York District Court Judge Strikes Down State 'Neutrality' Law

The U.S. District Court for the Northern District of New York May 17, 2005 provided a huge boost for merit shop employers nationwide when Judge Neal McCurn ruled that New York's "labor neutrality law" (New York Labor Law §211-a), which prohibits employers receiving state funds from arguing in support of or against joining a union, is preempted by the National Labor Relations Act (NLRA).

In his ruling, McCurn stated that the New York law "interferes directly" with section 7 of the NLRA, which protects the rights of an employee not to join a union (Healthcare Association of New York State, Inc. v. Pataki, N.D.N.Y., No. 1:03-CV-0413, 5/17/05).

"It is difficult, if not impossible to see, however, how an employee could intelligently exercise such rights, especially the right to decline union representation, if the employee only hears one side of the story—the union's," the ruling stated. "Plainly hindering an employer's ability to disseminate information opposing unionization 'interferes directly' with the union organizing process which the NLRA recognizes."

In addressing the question of whether New York's "labor neutrality law" was preempted by the NRLA, McCurn cited a 2004 U.S. Court of Appeals for the 9th Circuit decision that struck down a similar neutrality law in California that prohibited the use of state funds for promoting or deterring union organizing by most state contractors (The U.S. Chamber of Commerce v. Lockyer (364 F3d 1154 [2004]). Four days before McCurn issued his ruling, the 9th Circuit withdrew the Lockyer decision and ordered a rehearing of the case.

The court also referenced a 1993 U.S. Supreme Court case that articulated two distinct principles through which the New York "neutrality" law may be preemptive (Building and Construction Trades Council v. Associated Builders and Contractors of Massachusetts/Rhode Island, (507 U.S. 218 [1993]). In the case,

which is commonly known as Boston Harbor, the Supreme Court established the "market participant exception," which holds that the NLRA cannot preempt actions taken by a state acting in its capacity as a proprietor, or "market participant," and not as a regulator.

June 29, 2005

Uncovered: The Report Republicans Don't Want You To Read

http://workinglife.typepad.com/daily_blog/2005/06/uncovered_the_r.html

So, there's been a document floating around Capitol Hill that just dropped into my little paws. It was described as a "draft" by the person who passed it on...and it makes for interesting reading on a topic that is really what this whole debate in labor is about: organizing.

With a very sexy and inspiring title "Labor Union Recognition Procedures: Use of Secret Ballots And Card Checks," the May 23rd draft comes out of the Congressional Research Service, which takes on research projects for Members of Congress. Technically, the reports are not for the public but you can usually get a copy if you ask a friendly Member of Congress.

A staffer for Rep. George Miller (D-CA) tells me that the report has gone almost unnoticed because it was ordered up by Republicans—and they don't like what it says so they are trying to bury it. Namely, that card check recognition leads to more unionization than the standard representation elections. Well, duh—labor's been making that argument before. But, this report gives some factual ammunition to the argument.

For the wet-behind-the-ears, I've written about card check several times, including in this article for Tom Paine.com. You can read the whole thing and come back...or just check out the Utne Reader version that follows: "as the name suggests, the workers literally sign a card that expresses support for the union; then, a neutral third party checks the cards, and, by previous agreement, if a majority indicate their support for the union, the employer recognizes the union and the parties sit down to bargain a contract over wages, benefits, job security and other issues. The beauty of the card check initiative is that it effectively eliminates the campaign of intimidation that employers routinely embark upon during a union organizing drive."

There's a whole bunch of dense crap about "economic efficiency" but there are two relevant points in this very dry report (Hemingway, this guy isn't):

1. The most powerful argument for card check comes from data in Canada, where labor laws are better than in the U.S. Even in Canada, the success rate for card check recognition was 9 percent higher than under a mandatory voting system i.e., a secret ballot election. In the province of British Columbia, card check was allowed until 1984, revoked from 1984 through 1992 and, then, reinstated in 1992. During the 11 years with card check until 1984, the union success rate was 91 percent; when only mandatory voting was used, the union success rate was 73 percent.

2. If you add neutrality to card check (that is, when an employer agrees not to try to beat the psychological crap out of workers and stays out of the debate over the union), success rates in the U.S. are 16 percent higher than when just card check is used.

An interesting footnote on page 6: "Some evidence indicates that within three years of winning an election, approximately one-fourth of unions have not reached a first contract with the employer." Translation: even when workers do have the guts to fend off a company's terror campaign and they vote for the union, the company extends the war and refuses to bargain fairly.

So, it's not coincidence that the report has been buried by Republicans, who are trying to outlaw card check via the Orwellian sounding "Secret Ballot Protection Act of 2005" introduced by that dolt Rep. Charlie Norwood. It's competing with a bill introduced by Miller in the House and Ted Kennedy in the Senate, called the "Employee Free Choice Act," which would effectively ratify the "card check" procedure.

The good Miller-Kennedy bill has zero chance of passing anytime before the next Ice Age (well, come to think of it, that's pretty darn close) since you need 60 votes in the Senate to get it through—and there are more than a few Democrats who are pathetic when it comes to labor rights (except when it comes to their right to collect campaign contributions). So, I've been a bit skeptical about all the hoohah and resources poured in by unions to support this bill.

Neutrality, Card-Check Agreements With Cingular Yield Victories for Communications Workers Union (Apr. 23, 2002)

Supported by neutrality and card-check agreements, nearly 4,000 workers at cellular-technology provider Cingular Wireless have joined the Communications Workers of America (CWA) in the last four months. The majority of union victories were in the South.

In December, more than 300 workers at a Cingular customer service center in Ashland, Kentucky, won card-check recognition with CWA, followed in January by 500 Cingular customers-service reps in Georgia, 600 in Florida, and 425 in Ocean Springs, Mississippi.

And in March, 404 workers at a Cingular call center in Fayetteville, North Carolina, 186 Cingular workers in Oklahoma City, and 509 workers at a Cingular call center in Johnson City, Tennessee, also won card-check recognition elections. Other recent CWA card-check recognition victories at Cingular include:

- 100 retail sales reps in Connecticut, Rhode Island and Massachusetts on March 8.
- Approximately 240 retail store and technical employees in Indiana won recognition effective on April 14, 2002.

CWA, with more than 725,000 workers across the United States, Canada and Puerto Rico, now represents more than 11,000 workers at Cingular Wirless locations nationwide. In the Northeast, CWA now represents all eligible workers at Cingular, according to the union.

The latest round of organizing victories grew out of the neutrality and card-check agreement between CWA and the company that was extended last summer to cover Cingular workers in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, Mississippi, South Carolina, Tennessee, and the Commonwealth of Puerto Rico. The extension became effective on January 1, 2002, for retail workers and on October 1, 2001, for all other workers. (Read a copy of the agreement between CWA and Cingular. Requires Adobe Acrobat.)

Breaking Through in the South

CWA's neutrality and card-check agreements with Cingular have been important factors in helping the union win new members in the South. And the union's success illustrates the effectiveness of using existing collective-bargaining leverage to build and maintain union membership.

As anyone familiar with union organizing understands, getting workers to take the risk of joining a union in the face of hostile anti-union campaigns waged by employers is a Herculean challenge. And these obstacles can be even greater in parts of the country such as the South that have been traditionally anti-union.

Under the neutrality and card-check agreements, Cingular has agreed to remain neutral during union organizing campaigns and allow union organizers to come on-site to distribute literature and talk to workers. As a result, workers at Cingular are free to choose the union without facing a campaign of fear and intimidation. The card-check agreement requires Cingular to recognize the union after a majority of workers have signed cards in favor of the union. The card-check results are then certified by the American Arbitration Association.

CWA was able to use its existing leverage with BellSouth Corp. and SBC Communications to win the neutrality and card-check agreement at Cingular, which was formed out of a joint venture between SBC Communications Inc. and BellSouth Corp. in 2000. Georgia-based Cingular employs 35,000 workers and is the second largest wireless carrier in the United States.

Overcoming Doubts

But even with a neutrality agreement, a union must still work to win the trust of workers.

In Johnson City, Tennessee, for example, CWA organizers encountered doubts among Cingular workers that the company would really stay neutral and not retaliate against employees who support the union.

"It took some convincing for the people to really believe they had neutrality," said CWA Organizing Coordinator Hugh Wolfe. "Many expected that attempting to form a union would get them fired."

To build support for the union at the Johnson City location, organizers put together a 30-member internal committee of Cingular workers, setting the stage for a 10-week campaign. Organizers and union supporters at Cingular distributed literature inside the call center, sent out emails, and answered telephone calls from employees.

Contrary to what businesses and other anti-labor groups argue, workers still want unions, as CWA's successes have shown. But without a commitment of neutrality from employers, the decision to join a union becomes too risky in the eyes of many workers who fear they will be fired for supporting the union.

That's why unions must continue to bargain for neutrality agreements in existing collective bargaining agreements, as well as continue to fight for card-check recognition laws at the national level.

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